

REMARKS/ARGUMENTS

A petition and fee for a three month extension of time until 02/07/2007 is filed herewith.

The title has been amended to correct a typographical error. Specification paragraphs [0009], [0010], [0013], [0016], [0017], [0031], [0033], [0035], [0036], [0037], [0039], [0042], [0044], [0047], [0049], [0050], [0058], [0059], [0060], [0066], [0069], [0072], [0076], and the abstract have been amended to correct typographical errors by replacing most occurrences of " $\mu$ " with --u-- to be consistent with the priority document filed with the application such that the definition of the parameters and the formulae presented in the specification are consistent. Also specification paragraphs [0031], [0033], and [0036] have been amended to correct typographical errors by replacing " $\tau$ " with --T-- (paragraphs [0031], [0033], and [0036]) and " $l$ " with --I-- (paragraph [0031]) to be consistent with the priority document filed with the application such that the definition of the parameters and the formulae presented in the specification are consistent. Other corrections in paragraphs [0066] and [0072] of the placement of " $u_T$ " and " $\tau=\tau_{n+1}$ " have been made to correct typographical errors. The errors in the specification occurred through error and without deceptive intent. It is respectfully requests that the amendments of the typographical errors be allowed.

Claims 1, 3 and 5 have been amended to replace " $\mu$ " with --u-- to be consistent with the amended specification.

In paragraph 3 of the Claim Objections of the office action, the examiner objects to claim 1 (and presumably claims 3 and 5) because the terms "6a" and "6b" appear next to the claimed

formulas. Claims 1, 3 and 5 have been amended to remove "6a" and "6b" from the claims as required.

In paragraph 4, claims 2, 4, and 6 are objected to as the terms "CP" has no definition in the claims. Claims 2, 4 and 6 have been amended to replace "CP" with --central processor-- as required by the examiner. It is submitted the amended claims are allowable over the claim objections cited by the examiner, which allowance is respectfully requested.

In paragraphs 5, 6 and 7, claims 1, 3 and 5 are rejected under 35 U.S.C. 112, second paragraph for failing to define  $X_n$  and  $u_n$  and  $\rho_n$ . Claims 1, 3, and 5 have been amended to claim a simulation system model for simulating performance of real hardware for a number  $n$  of iterations. It will be understood in the art that  $V_n$  and  $u_n$  and  $\rho_n$  refer to the values of these parameters for an iteration  $n$ . Further,  $\rho_n$  has been claimed in claims 1, 3, and 5 as an accumulated wait time divided by an accumulated processing time of the system. This is disclosed in paragraphs [0035] and [0036] of the specification. In the computer system example, the accumulated wait time is disclosed as the system wait time, and the processing time is disclosed as the instruction processing time (see paragraph [0031]).

In paragraph 7 of the office action, claims 1, 3 and 5 are rejected because entry and target control quantities  $X$  and  $u$  are not defined. Claims 1, 3 and 5 clearly claims that  $X$  is an entry control of the model. This is discussed in paragraph [0009] of the specification. The variable  $u$  is clearly claimed as the target control quantity of the system model. This is also discussed in paragraph [0009]. The start value or entry value  $X$  is the value of the control quantity where the simulation model starts, and the target value  $u$  is the target value the simulation model converges to or approaches (see paragraph [0034]). These general values may be, for instance, CP utilization in a computer

system (paragraph [0019]), or processing of work pieces such as cars in the car producing industry (see paragraph [0052]). As disclosed in paragraph [0058], the working units' throughput may be the target control quantity  $u$ , and in paragraph [0060], the target utilization  $u$  may be a predetermined value associated with the working unit 10 of Fig. 2. The load imposed by the driver unit is the working unit's entry utilization  $X'$  (see paragraph [0058]). It is respectfully submitted that claims 1, 3 and 5 are allowable under 35 U.S.C. 112, second paragraph, which allowance is requested.

In paragraph 8 of the office action, the examiner rejects claims 2, 4, and 6 under 35 U.S.C. 112, second paragraph because it is not clear if "utilizations" correspond to "utilization percentages" or some other form of "utilization." Claims 2, 4, and 6 have been amended to make clear that utilization is the percentage of time the central processor utilizes for processing. It is submitted that claims 2, 4, and 6, as amended, are allowable under 35 U.S.C. 112, second paragraph, which allowance is respectfully requested.

In paragraphs 9-18, claims 1-6 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1, 3, and 5 have been amended to positively claim as claim elements, structural elements. In claim 1, a time-dependent simulation system model of a system is provided in a computer memory. In claim 3, a computer readable medium having recorded thereon computer readable program code performing the claimed method is claimed. Further in claim 3, the claimed method includes a time-dependent simulation system model of a system in a computer memory is claimed. In claim 5, a computer system is claimed including a computer memory having a time-dependent simulation system model of a system for simulating performance of real hardware is claimed.

It is submitted that claims 1, 3, 5, and the claims depended therefrom, are fully compliant with MPEP § 2106 Patentable Subject Matter -- Computer-Related Inventions [R-3} at 2100-12, "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry* 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) ... ." It is submitted that claims 1-6 are allowable under 35 U.S.C. 101, which allowance is respectfully requested.

It is respectfully submitted that the application is now in condition for allowance, which allowance is respectfully requested.

RESPECTFULLY SUBMITTED

/Floyd A. Gonzalez/

FLOYD A. GONZALEZ

Registration No. 26,732

Phone: 845-433-7282

Fax: 845-432-9786